

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 434

HOUSE BILL NO. 1160

By Representatives Fraley, Ulysses Jones, Shepard, Odom

Substituted for: Senate Bill No. 1184

By Senator Haynes

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 7 and Title 57, Chapter 3, relative to transportation of alcoholic beverages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-703(a), is amended by deleting the language "does not have affixed to it a proper state of Tennessee revenue stamp" and substituting instead the language "has not had all taxes attributable to such intoxicating liquor paid".

SECTION 2. Tennessee Code Annotated, Section 39-17-703(b), is amended by deleting the language "that does not have a proper state of Tennessee revenue stamp affixed thereto" and substituting instead the language "which is not accompanied by a receipt or documentation from an entity holding a license issued under §§ 57-3-204, 57-3-203, or 57-3-207".

SECTION 3. Tennessee Code Annotated, Section 57-3-102, is amended by deleting the section in its entirety and substituting instead the following:

Section 57-3-102.

(a) It is lawful to manufacture, store, sell, distribute and purchase alcoholic beverages or wine subject to proper licensing, payment of taxes, compliance with the limitation, regulations and conditions provided in this chapter, in counties or municipalities of this state which, by local option elections so permit as hereinafter provided.

(b) It shall be lawful for an individual to transport up to five gallons (5 gals.) of alcoholic beverages or wine for personal or household use of such individual in counties or municipalities which have not permitted the sale of alcoholic beverages or wine by local option elections as hereinafter provided and amounts in excess of five (5 gals.) if accompanied by a receipt or other documentation demonstrating legal purchase or transport from an entity licensed under §§ 57-3-203, 57-3-204 or 57-3-207.

SECTION 4. Tennessee Code Annotated, Section 57-3-207(i), is amended by adding the following language as a new sentence at the end of the subsection:

Any person transporting such wine in excess of five gallons (5 gals.) shall have with such shipment a receipt or other documentation demonstrating that the wine was purchased from a winery as licensed herein.

SECTION 5. Tennessee Code Annotated, Section 57-3-304(b), is amended by deleting the language "three gallons (3 gals.)" and substituting instead the language "five gallons (5 gals.)".

SECTION 6. Tennessee Code Annotated, Section 57-3-401, is amended by deleting the section in its entirety and substituting instead the following:

Section 57-3-401.

(a)

(1) It is an offense for any person, firm or corporation, other than a common carrier or entity licensed under this title, to transport, either in person or through an agent, employee or independent contractor, untaxed alcoholic beverages or wine as defined in § 57-3-101 within, into, through or from the state of Tennessee in quantities in excess of five gallons (5 gals.). Except as provided in § 57-3-103(b) authorizing a person to store alcoholic beverages intended for a person's personal or social use, it is an offense for any person, firm, corporation or association to possess untaxed alcoholic beverages or wine in quantities in excess of five gallons (5 gals.). A violation of this subdivision (1) is a Class E felony.

(2) Any person, firm, corporation, or association transporting any alcoholic beverages or wine within or into this state shall bear the burden of proof that the taxes imposed by this title on alcoholic beverages or wine have been paid. A receipt or other documentation demonstrating legal purchase or transport from an entity licensed under §§ 57-3-203, 57-3-204 or 57-3-207 shall be adequate proof that such taxes have been paid.

(b)

(1) It is an offense for any person, firm, corporation or association to import, ship, deliver or cause to be imported, shipped or delivered into this state any alcoholic beverages upon which the tax imposed by this title has not been paid or where such transportation is not authorized under this title to an entity possessing a license issued under this title. A violation of this subdivision (1) is a Class E felony.

(2) Except as provided in § 57-3-207 for purchases made by an individual at a winery licensed pursuant to such section, and notwithstanding the prohibition in subdivision (b)(1), it shall be lawful for any individual to transport not more than five gallons (5

gals.) of alcoholic beverages or wine into or within this state for the personal or household use of that individual.

SECTION 7. Tennessee Code Annotated, Section 57-3-402(d), is amended by deleting the language "three gallons (3 gals.)" and substituting instead the language "five gallons (5 gals.)".

SECTION 8. Tennessee Code Annotated, Section 57-3-403(a), is amended by deleting the language "three gallons (3 gals.)" and substituting instead the language "five gallons (5 gals.)".

SECTION 9. Tennessee Code Annotated, Section 57-3-403(a), is further amended by inserting in the introductory sentence after the words "with this section" and before the colon ":" the language "or as otherwise permitted in this chapter" and in subdivision (a)(2) by inserting after the language "of this section," the language "or as otherwise permitted in this chapter".

SECTION 10. Tennessee Code Annotated, Section 57-3-411(b), is amended by deleting the language "one gallon (1 gal.)" and substituting instead the language "five gallons (5 gals.)".

SECTION 11. Tennessee Code Annotated, Section 57-9-201(a), is amended by adding the language "in excess of five (5) gallons" after the language "alcoholic beverages of more than five percent (5%) alcohol"; and by deleting the language "purchased or obtained from a licensed Tennessee retailer or wholesaler" and by substituting instead the language "purchased or obtained from an entity holding a license issued under §§ 57-3-204, 57-3-203, or 57-3-207".

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 26, 2009

A handwritten signature in black ink, reading "Kent Williams", written over a horizontal line.

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

A handwritten signature in black ink, reading "Ron Ramsey", written over a horizontal line.

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 12th day of June 2009

A handwritten signature in black ink, reading "Phil Bredeesen", written over a horizontal line.

PHIL BREDESEN, GOVERNOR